<u>REMARKS</u>

The present application has been reviewed in light of the Office Action dated November 28, 2008. Claims 1, 2, 9-13, and 15-25 are presented for examination, of which Claims 1, 16, and 17 are in independent form. Claim 6 has been cancelled, without prejudice or disclaimer of the subject matter presented therein, and new Claim 25 has been added to provide Applicants with a more complete scope of protection. Support for new Claim 25 may be found, for example, in paragraph [0058] of the specification. Claims 17-20 and 23 have been amended to define aspects of Applicants' invention more clearly. Favorable reconsideration is requested.

The Office Action states that Claims 17-24 are rejected under 35 U.S.C. § 101 as being directed to software *per se*. Although Applicants do not fully agree with these rejections, in an effort to advance the examination of the present application independent Claim 17 has been amended to be directed to a "computer system configured to facilitate dynamic provisioning of computing resources, said system comprising a server apparatus with a provisioning engine." Accordingly, it is respectfully submitted that Claim 17 clearly is directed not directed to software *per se* and instead is directed to statutory subject matter under 35 U.S.C. § 101. Therefore, withdrawal of the rejections to Claims 17-24 under 35 U.S.C. § 101 is respectfully requested.

The Office Action states that Claims 1, 9, 10, 13, 16, 17, and 22 are rejected under § 103(a) as being unpatentable over U.S. Patent No. 6,985,955 (*Gullotta et al.*) in view of U.S. Patent Application Publication No. 2003/0195942 (*Muhlestein et al.*); that Claim 2 is rejected under § 103(a) as being unpatentable over *Gullotta et al.* in view of *Muhlestein et al.* and further in view of U.S. Patent Application Publication No. 2002/0174227 (*Hartsell et al.*); that Claim 6 is rejected under § 103(a) as being unpatentable over *Gullotta et al.* in view of *Muhlestein et al.* and further in view of U.S. Patent No. 6,799,216 (*Steegmans*); that Claims 11 and 23 are rejected

under § 103(a) as being unpatentable over *Gullotta et al.* in view of *Muhlestein et al.* and further in view of U.S. Patent Application Publication No. 2005/0043961 (*Torress et al.*) and U.S. Patent Application Publication No. 2003/0009540 (*Benfield et al.*); that Claims 12 and 21 are rejected under § 103(a) as being unpatentable over *Gullotta et al.* in view of *Muhlestein et al.* and further in view of U.S. Patent Application Publication No. 2003/0145093 (*Oren et al.*); that Claim 15 is rejected under § 103(a) as being unpatentable over *Gullotta et al.* in view of *Muhlestein et al.* and further in view of U.S. Patent Application Publication No. 2005/0010671 (*Grannon*); that Claim 18 is rejected under § 103(a) as being unpatentable over *Gullotta et al.* in view of *Muhlestein et al.* and further in view of U.S. Patent Application Publication No. 2002/0161904 (*Tredoux et al.*); that Claims 19 and 24 are rejected under § 103(a) as being unpatentable over *Gullotta et al.* in view of *Muhlestein et al.* and further in view of U.S. Patent Application Publication No. 2002/0064149 (*Elliot et al.*); and that Claim 20 is rejected under § 103(a) as being unpatentable over *Gullotta et al.* in view of *Muhlestein et al.* and further in view of U.S. Patent Application Publication No. 2006/0168253 (*Baba et al.*).

Cancellation of Claim 6 renders its rejection moot. For at least the reasons presented below, Applicants submit that independent Claims 1, 16, and 17, together with the claims dependent therefrom, are patentably distinct from the cited references.

The aspect of the present invention set forth in Claim 1 is directed to a computer implemented method for dynamically provisioning computing resources. According to the method, a request for a computing resource is received, where the request is associated with an asset. A determination is made of an asset classification of the asset, a business value of the asset, and a resource classification related to the asset. The asset classification is at least one of: a public asset, a business confidential asset, a private asset, and a secret asset. The business

value of the asset is one of: a low value, a medium value and, a high value. The resource classification is one of: a trusted classification for internal entities and a non-trusted classification for external entities. The asset is assigned to one of a plurality of security domains based on the determination. Each security domain corresponds to a respective degree of security control. The computing resource is provisioned based on the security domain.

A notable feature of Claim 1 includes the assigning of the asset to one of a plurality of security domains based on the determination, in which each security domain corresponds to a respective degree of security control. By virtue of this feature, it is possible to dynamically provision or allocate computing resources in a manner that is both safe and efficient for the asset

Applicants agree with the assertion in the Office Action that *Gullotta et al.* fails to disclose "a computer implemented method for dynamically provisioning computing resources wherein an asset is assigned to one of a plurality of security domains based on a determining step, wherein each security domain corresponds to a respective degree of security control; and provisioning a computing resource based on said one of said plurality of security domains." *See* Office Action, page 4. Applicants respectfully disagree, however, with the Office Action's assertion that *Muhlestein et al.* teaches such a feature in paragraphs [0058] and [0059] thereof.

As understood by Applicants, *Muhlestein et al.* relates to an architecture that provides the ability to create and maintain multiple instances of virtual servers, *e.g.*, virtual filers (vfilers), within a single server, *e.g.*, a filer. A vfiler is a partitioning of network and storage resources of the filer platform which establish an instance of a multi-protocol server. Each vfiler is maintained and executed entirely independent of other vfilers on the platform. Dedicated filer resources, such as units of storage and network addresses of network interfaces, may be

arbitrarily grouped and "hard" partitioned to establish security domains within the filer. Meanwhile, common filer resources, such as a storage operating system and a file system, may be shared among the vfilers.

Muhlestein et al., in paragraphs [0058] and [0059], discloses that each vfiler is allocated a certain amount of dedicated and distinct units of storage resources, and one or more dedicated and distinct network addresses, and that each vfiler is also allowed shared access to the common file system on behalf of its client. Therefore, interpretations of a security object associated with a client accessing the common file system may vary among vfilers. To achieve this, each vfiler is provided with a vfiler context data structure including information pertaining to a distinct security domain of the vfiler to thereby enable controlled access to the allocated and shared resources of the vfiler. The cited portion of *Muhlestein et al.* also provides examples in which the vfiler context of a first vfiler ensures that clients of a first security domain can use a first set of source and destination network addresses when issuing requests to access a first subset of storage resources on the filer, and in which the vfiler context of a second vfiler ensures that clients of a second security domain may use a second set of source and destination network addresses to access a second subset of storage resources.

However, nothing has been found in *Muhlestein et al.* that is believed to teach or suggest "assigning said asset to one of a plurality of security domains based on said determining, wherein each security domain corresponds to a respective degree of security control," as claimed in Claim 1. (Emphasis added).

Muhlestein et al. merely discloses that a certain amount of dedicated and distinct units of storage resources are allocated to each vfiler and that each vfiler is provided with a vfiler context with information pertaining to a distinct security domain that results in controlled access

to the allocated and shared resources. Applicants submit that *Muhlestein et al.* does not teach or suggest assigning the asset to one of a plurality of security domains <u>based on a determining step</u>.

A review of the other art of record has failed to reveal anything that, in Applicants' opinion, would remedy the deficiencies of *Gullotta et al.* and *Muhlestein et al.*, as applied against the independent claims herein.

Accordingly, in view of the above, Applicants submit that Claim 1 is patentable over the cited references, whether considered individually or in any permissible combination. Therefore, withdrawal of the rejection under 35 U.S.C. § 103(a) is respectfully requested.

Independent Claims 16 and 17 include a feature similar to the above-discussed feature of Claim 1, and are believed to be patentable for at least the reasons discussed above. The other rejected claims in the present application depend from one or another of Claims 1, 16, and 17 and therefore are submitted to be patentable for at least the same reasons. However, because each dependent claim also is deemed to define an additional aspect of the invention, individual consideration or reconsideration, as the case may be, of the patentability of each claim on its own merits is respectfully requested.

No petition to extend the time for response to the Office Action is deemed necessary for this Amendment. If, however, such a petition is required to make this Amendment timely filed, then this paper should be considered such a petition and the Commissioner is authorized to charge the requisite petition fee to Deposit Account 50-3939.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and an early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

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